

The Special Education Problem Solving Process: State Complaints



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Agenda

- ❑ The Law and the State Educational Agency
- ❑ A Continuum
- ❑ The System and the Process
- ❑ The State Complaint Procedures
- ❑ Additional Context

The Law and the State Educational Agency

Federal Requirements and State Rule

- ❑ The State Educational Agency (SEA) must establish its own state complaint procedures
 - No procedures exist in the Individuals with Disabilities Education Act (IDEA) or its federal implementing regulations at 34 CFR § 300.1 et seq.
 - The Michigan Administrative Rules for Special Education at Part 8, R 340.1851 through 340.1855, contain language necessary to establish procedures and authority consistent with Michigan law and federal law.

The Federal Foundation

- ❑ Federal law contains a framework for “minimum state complaint procedures” at 34 CFR § 300.152.
- ❑ Federal law gives the State authority over, and flexibility with, its own special education state complaint procedures.
- ❑ The federal law repeatedly uses the phrase ‘resolve a complaint’ in the IDEA and its regulations, including the preamble.
- ❑ Examples of federal language include:
 - “we [the federal government] believe the SEA should have broad flexibility”
 - “the SEA must resolve the complaint”
 - “the SEA’s responsibilities in resolving a complaint pursuant to its complaint procedures, and is appropriate to the interest of resolving allegations promptly”

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- ❑ The federal law and Michigan law require that we resolve a complaint.
- ❑ Emphasis on the resolution of a complaint allows the Office of Special Education the broad flexibility and State control provided for in federal law.
- ❑ The Michigan procedures include all of the requirements of the federal law and Michigan law.
- ❑ The special education state complaint system is part of a continuum of problem-solving options.

See Attachment A

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The Intermediate School District Relationship

- ❑ The ISD is a collaborative partner with the OSE throughout the state complaint process.
 - The OSE works with colleagues at each ISD to implement the state complaint process.
 - The OSE and the ISD together plan the investigation and communicate with the complainant and the local district that is named in the complaint.
 - This relationship is established in Part 8 of the Michigan Administrative Rules for Special Education.
- ❑ The ISD coordinates with the OSE Corrective Action Case Manager to follow up on corrective actions and proofs of compliance.
- ❑ The ISD provides assistance to individuals in filing a complaint.
- ❑ The OSE and the ISD work collaboratively to develop and provide training and technical assistance about resolving problems and the state complaint process throughout the state. The ISD in turn provides training and technical assistance to local districts.

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The Local School District Relationship

- ❑ In the context of a state complaint, the local school district is most often the target of the state complaint.
- ❑ The local school district is required by Michigan Rule to cooperate with the OSE and the ISD during the state complaint process.
- ❑ The local district is given the opportunity to propose a resolution to the complaint.
- ❑ The parent and the local district may agree to use mediation to resolve the complaint.
 - Mediation is provided free of cost to the parent and the district through the OSE supported Michigan Special Education Mediation Program.



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Supporting Advocacy

- ❑ The Michigan Alliance for Families is a project supported through the OSE.
- ❑ 23 Arcs and other advocacy centers are supported across the State of Michigan.
- ❑ The OSE invests approximately \$300,000 in free advocacy services for parents through these efforts.



Providing Help and Information

- ❑ The OSE Special Education Information Line at 1-888-320-8384 takes calls 24/7.
 - Two staff are dedicated to answering the Information Line Monday through Friday from 8:00 a.m. through 5:00 p.m.
 - The OSE also supports an e-mail address that receives information inquiries and requests for help.

A Continuum

Informal to Formal

- ❑ The Office of Special Education document “Comparison of the Special Education Problem Solving Options” describes the similarities and differences between the first four options in the problem-solving continuum.

See Attachment B

- ❑ The options exist in a continuum with informal local meetings at one end and move toward formal court proceedings at the opposite end.



Informal to Formal

Informal

- Informal meeting; facilitated meeting
- Local; face to face

Mediation

- Mediation through State project; private mediation
- Regional and local; face to face

State Complaint

- State agency; compliance or non-compliance; neutral; least formal of formal processes
- Remote; fact-finding; document review; telephone interviews; final decision

Due Process Complaint

- Administrative process; State agency; Administrative Law Judge; formal hearing
- Remote, regional, and local; administrative proceeding; decision and order

Court

- Court of Competent Jurisdiction
- Remote; judicial action; court environment; decision and order

Informal to Formal

- ❑ As problem-solving moves from the informal to the formal, distance is created between the parties involved.
- ❑ Decision-making is given away by the parties involved as they move from the informal to the formal.

The System and the Process

Program Accountability

- ❑ Special education state complaint procedures are implemented through the Office of Special Education Program Accountability Unit.
- ❑ The Program Accountability Unit operates from an infrastructure built on a team model.
- ❑ In a special education state complaint, the Office of Special Education is the neutral party.
- ❑ The Program Accountability Unit places an emphasis on:
 - Team; Consistency; Voice of the Client

The Intent and Purpose

- ❑ Consistent with effective problem-solving models and federal law, Michigan's special education problem-solving process is student-centered and emphasizes:
 - Early and effective communication
 - Preservation of relationships
 - Collaborative efforts
 - Options and flexibility
 - Timeliness
- ❑ The process is described in the Office of Special Education document "Special Education Problem Solving Process."

See Attachment A

The Process and the State Complaint Procedures

- ❑ The special education state complaint procedures are part of the “Special Education Problem Solving Process” document. *See Attachment A*
- ❑ The state complaint procedures:
 - Meet federal requirements.
 - Meet State law and rule requirements.
 - Provide the opportunity to resolve the problem as promptly as possible.
 - Provide the opportunity to engage in mediation and alternative dispute resolution at any point in the process.
 - Determine compliance or non-compliance by the district.

The Process and the State Complaint Procedures

- ❑ State complaints may be categorized according to the subject of the allegations. A submitted state complaint:
 - May be filed about an individual student.
 - The parent most commonly files an individual student complaint.
 - May be filed about a district's special education system.
 - This type of complaint is called a 'systemic' complaint.
 - Systemic complaints are most commonly filed by an Intermediate School District or an advocacy organization.
 - Systemic complaints allege that a district's system, or a component of its system, is not compliant and is affecting multiple students. An example of a system component would be a district's discipline procedures.
- ❑ Both types of complaints, individual and systemic, must include a factual basis. A factual basis is the 'who, what, when, where, how' of a complaint.

The Procedures

The Implementation of the State Complaint Procedures

- ❑ The procedures are contained in the Office of Special Education document “Special Education Problem Solving Process.”
- ❑ The procedures utilize a series of forms that guide the fact-finding and report writing. *See Attachment D*
- ❑ The procedures generate a series of letters that help to provide consistency in communication.
- ❑ A timeline applies to the process and the procedures. *See Attachment C*

The Implementation of the State Complaint Procedures

- ❑ When a complaint is submitted it receives a pre-case number and is reviewed for sufficiency.
 - The sufficiency review is a form built on requirements in federal law and state rule.
 - The sufficiency review is conducted by a case manager or a coordinator. The staff rotate this responsibility.
 - A sufficient complaint is filed, given a case number, and assigned to a case manager.
 - If a complaint is not sufficient, a letter is sent to the complainant explaining the lack of sufficiency and providing the complainant the opportunity to resubmit the complaint.

See Attachments E and F

The Implementation of the State Complaint Procedures

- ❑ The fact-finding, the investigation, of a filed state complaint follows the procedures contained in the document “Special Education Problem Solving Process.” *See Attachment A*
 - The investigation is conducted collaboratively by the Office of Special Education and the Intermediate School District.
 - When completed, a final decision is issued. If a district is found non-compliant, a corrective action is issued.
 - The Office of Special Education follows-up on the corrective action by monitoring, with the Intermediate School District, the content and timeliness of the submissions of proof of compliance.

Additional Context

❑ From Michigan's Office of the Auditor General:

▪ EFFECTIVENESS TO INVESTIGATE AND RESOLVE COMPLAINTS

Audit Objective: To assess the effectiveness of OSE's efforts to investigate and resolve complaints related to special education services.

Audit Conclusion: We concluded that OSE's efforts to investigate and resolve complaints related to special education services were effective.

Factors leading to this conclusion included the:

Significant improvement since the prior audit of State complaints investigated within the 60-day time requirement.

Consistent timely completion of all ordered corrective action relating to the State complaints and due process complaints we reviewed.

Additional Context

□ In 2013-2014:

- 259 complaints were filed.
- 182 final decisions were issued.
- 226 findings of noncompliance/638 allegations of noncompliance.

35% of allegations were found to be valid.

Special Education Answers

Michigan Special Education Information Line

1-888-320-8384